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11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 **HAROLD B. SHAMBURGER,**

15 Plaintiff,

16 v.

17 **R. KIRKLAND, et al.,**

18 Defendants.  
19

C 07-4597 JSW (PR)

**DECLARATION OF  
KENNETH T. ROOST  
IN SUPPORT OF  
DEFENDANTS' MOTION  
FOR EXTENSION OF TIME  
TO FILE A DISPOSITIVE  
MOTION**

20 I, Kenneth T. Roost, declare:

21 1. I am an attorney admitted to practice before the courts of the State of California and  
22 before this Court. I am employed by the California Attorney General's Office as a Deputy  
23 Attorney General in the Correctional Law Section, and am assigned to represent Defendants  
24 Fischer and Ruff (Defendants) in this case. I am competent to testify to the matters set forth in  
25 this declaration, and if called upon by this Court, would do so.

26 2. On April 1, 2008, the Court ordered service on Defendants, and ordered that their  
27 dispositive motion would be due in sixty days, on June 2, 2008. (Order of Service.)

28 3. But the Marshals Service mailed Defendants the summons and complaint only

Decl. Roost Supp. Defs.' Mot. EOT File Dispositive Mot.

*Shamburger v. Kirkland, et al.*  
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1 recently, on May 23, 2008. Defendants' counsel thus received assignment of this case on June 4,  
2 2008, at approximately 7:30 p.m., already two days beyond the filing date for the dispositive  
3 motion set by the Court in its Order of Service.

4 4. Defendants require additional time to prepare their dispositive motion, and potentially  
5 multiple declarations in support of the motion.

6 5. In addition, Defendants' counsel has four answering briefs to prepare and file in the  
7 Ninth Circuit within the next fifty days. Defendants' counsel is also preparing for oral argument  
8 before the Ninth Circuit on June 12, 2008. Further, counsel has argument for motions to dismiss  
9 and for reconsideration in a state case on July 1, 2008. Finally, counsel has a dispositive motion  
10 in another case before this Court due on July 28, 2008. Due to this extra case work, Defendants'  
11 counsel needs additional time to prepare a dispositive motion in this matter.

12 6. Defendants respectfully request a seventy-day extension of time to file their dispositive  
13 motion, so that it must be filed on or before August 11, 2008.

14 7. This request for an extension of time is not made for the purpose of harassment, undue  
15 delay, or any improper reason. Defendants have made no other requests for an extension of time  
16 in this case.

17 8. Plaintiff is confined in state prison and cannot easily be contacted concerning an  
18 extension of time. Because Plaintiff is a prisoner, it is also difficult to deliver this motion for an  
19 extension of time on the same day it is filed. Thus, Defendants are serving it by overnight mail.

20 I declare under penalty of perjury that the foregoing is true and correct and that this  
21 declaration was executed on June 5, 2008, in San Francisco, California.

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25 Kenneth T. Roost  
26 Deputy Attorney General

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